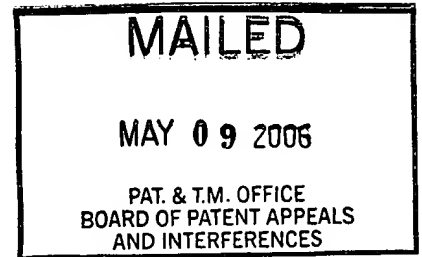


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES



Ex parte ARNAB DAS, FAROOQ ULLAH KHAN and SANJIV NANDA

Application No. 09/725,393

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on April 5, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

A review of the file indicates that the appeal brief filed August 10, 2005, did not fully comply with 37 CFR § 41.37(c).

37 CFR § 41.37(c) states in part:

(v) *Summary of claimed subject matter.* A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

(ix) *Evidence appendix.* An appendix containing copies of any evidence submitted pursuant to §§ 1.130, 1.131, or 1.132 of this title or of any other evidence entered by the examiner and relied upon by appellant in the appeal, along with a statement setting forth where in the record that evidence was entered in the record by the examiner. Reference to unentered evidence is not permitted in the brief. See § 41.33 for treatment of evidence submitted after appeal. This appendix may also include copies of the evidence relied upon by the examiner as to grounds of rejection to be reviewed on appeal.

(x) *Related proceedings appendix.* An appendix containing copies of decisions rendered by a court or the Board in any proceeding identified pursuant to paragraph (c)(1)(ii) of this section.

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A review of the application indicates that the following appropriate sections are missing from the appeal brief filed August 10, 2005:

- 1) "Evidence appendix" as set forth in 37 CFR § 41.37(c)(1)(ix); and
- 2) "Related proceedings appendix" as set forth in 37 CFR § 41.37(c)(1)(x).

A supplemental appeal brief in compliance with 37 CFR § 41.37 is required. For more information on the Board's new rules see the web page entitled More Information on the Rules of Practice Before the BPAI, Final Rule at:

<http://www.uspto.gov/web/offices/dcom/bpai/fr2004/moreinfo.html>.

On April 12, 2006, Lesley M. Gordon, Paralegal Specialist here at the Board of Patent Appeals and Interferences, contacted Gary D. Yacura (Registration No. 35416) and requested the missing appendices. As of May 1, 2006, the appendices have not been provided.

Also, the "Summary of claimed subject matter" does not map to the independent claims as set forth in 34 CFR § 41.37(c)(1)(v).

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Accordingly, it is

ORDERED that this application be returned to the examiner to: 1) hold the appeal brief of August 10, 2005 defective; 2) request appellants to file a supplemental appeal brief in compliance with 37 CFR § 41.37; and 3) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

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